

Appln. Serial No. 10/038,674
Amendment Dated April 4, 2005
Reply to Office Action Mailed February 9, 2005

REMARKS

In the Office Action dated February 9, 2005, claims 1, 2, 4, 11-16, 20, 21, 27, 31-34 were rejected under 35 U.S.C. § 102 over U.S. Patent Application Publication No. 2002/0166127 (Hamano); claims 9, 10, 17-19, 28, and 30 were rejected under § 103 over Hamano in view of U.S. Patent No. 5,781,894 (Petrecca); and claims 3 and 29 were rejected under § 103 over Hamano in view of U.S. Patent No. 6,067,570 (Kreynin).

Claim 1 has been amended by deleting the following words from line 6 of the claim: "the computer waking from sleep mode." No other changes have been made to claim 1. It is respectfully submitted that amended claim 1 is not anticipated by Hamano, since Hamano does not teach a user waiting time that includes a waiting time associated with at least one of the computer *entering* sleep mode, a *virus scan*, and a *disk scan*. The Office Action cited to paragraph [0029] of Hamano as teaching this last clause of claim 1. Paragraph [0029] of Hamano refers to either powering up a remote display terminal or waking up a remote display terminal. Paragraph [0030] of Hamano teaches that an advertisement program can be executed during the boot up sequence of the remote display terminal. Paragraph [0030] of Hamano also teaches that, alternatively, a displayed advertisement program or subroutine can be executed during a wake up sequence. Nowhere in Hamano is there any teaching of displaying a selected commercial message on a display device during a user waiting time, where the user waiting time includes waiting time associated with at least one of the computer entering sleep mode, a virus scan, and a disk scan. The display of advertisement information during a boot up or a wake up sequence is not the same as displaying of advertisement information during entering sleep mode, a virus scan, or a disk scan.

Independent claim 11 has similarly been amended to delete the following words from line 8 of the claim: "the computer system waking from sleep mode." In view of this amendment, Hamano also does not teach the subject matter of claim 11, since claim 11 specifies that the waiting time is associated with at least one of the computer entering sleep mode, a virus scan, and a disk scan.

Claim 32 has been cancelled, without prejudice, to render the rejection of the claim moot. Claim 33 has been amended from dependent form to independent form, with the claim unchanged except for deletion of the following words at line 10: "the system exiting sleep

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mode." Hamano does not teach an application to display a commercial message on a display device during a user wait time that is associated with at least one of the system going *into* sleep mode, a *virus scan*, a *file download*, and a *disk scan*.

Dependent claims are allowable for at least the same reasons as corresponding independent claims.

Moreover, with respect to the obviousness rejections of claims 17-19 over Hamano and Petrecca, it is respectfully submitted that a *prima facie* case of obviousness cannot be established with respect to these claims over Hamano and Petrecca. With respect to claim 17 (which depends from claim 11), the Office Action conceded that Hamano fails to disclose that displaying the commercial message in the memory is selectively disabled. 2/9/2005 Office Action at 6. However, reliance was made by the Office Action on Petrecca as teaching this missing feature. The Office Action cited specifically to col. 4, lines 51-52, of Petrecca as teaching this element. The cited passage of Petrecca refers to the ability of a user to choose not to activate the advertising message system during installation of a software product. This disabling of the advertising message system is in the context of presenting advertisements during execution of software by sponsors, such as software from Prodigy or Quicken. However, there is no suggestion whatsoever by Petrecca of disabling the presentation of advertisement information during a boot up sequence or a wake up sequence, as disclosed by Hamano. Therefore, a person of ordinary skill in the art looking to the teachings of Petrecca would not have been motivated to modify the system of Hamano to achieve the claimed invention. A *prima facie* case of obviousness has therefore not been established with respect to claim 17 for at least this reason.

Claims 18 and 19 (which also depend from claim 11) are similarly allowable over the asserted combination of Hamano and Petrecca. Similarly, a *prima facie* case of obviousness has not been established with respect to claim 28, which depends from claim 1, over Hamano and Petrecca. Claim 28 recites the acts of determining whether the user is a premium user, and in response to determining that the user is a premium user, providing an option to the user to disable display of the commercial message. Petrecca fails to provide the requisite suggestion or motivation to modify Hamano to achieve the subject matter of claim 28.

Dependent claim 30, which depends from claim 10, was also rejected as being obvious over Hamano and Petrecca. With respect to claim 30, the Office Action stated that Hamano

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teaches the assigning of a frequency weight to a commercial message based on a revenue generating capacity of the commercial message. Specifically, the Office Action cited to paragraph [0036] of Hamano. 2/9/2005 Office Action at 8. Paragraph [0036] of Hamano states that advertisements help service providers by receiving advertising revenue from merchants placing the advertisements, and that from the merchant's point-of-view, their advertisements are reaching the correct audience and thus are effective. However, this passage does not teach the assigning of a frequency weight to a commercial message *based on a revenue generating capacity of the commercial message*. Note that, as recited in claim 30, the assigned frequency weight is used to determine the repeating of the commercial message. Therefore, a *prima facie* case of obviousness has not been established with respect to claim 30.

Claims 31 and 34, which depend from claims 11 and 33, respectively, are not anticipated by Hamano, because Hamano fails to teach storing a frequency weight to determine frequency of displaying a commercial message, where the frequency weight *has a value assigned according to a revenue generating capacity of the commercial message*.

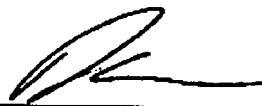
Claim 29 was rejected as being obvious over Hamano and Kreynin. With respect to claim 29, the Office Action conceded that Hamano fails to disclose providing a password to enable updating of advertisements. 2/9/2005 Office Action at 8. However, the Office Action relied upon Kreynin as teaching the missing element, citing specifically to col. 13, lines 38-44, of Kreynin. The cited passage of Kreynin refers to a password for user logon. The password for user logon is not the same as providing a password to enable the secure updating of non-volatile memory. Therefore, the hypothetical combination of Hamano and Kreynin fails to teach or suggest all elements of claim 29. A *prima facie* case of obviousness has therefore not been established with respect to claim 29.

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Allowance of all claims is respectfully requested. The Commissioner is authorized to charge any additional fees and/or credit any overpayment to Deposit Account No. 08-2025 (200304366-1).

Respectfully submitted,

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Dan C. Hu
Registration No. 40,025
TROP, PRUNER & HU, P.C.
8554 Katy Freeway, Suite 100
Houston, TX 77024
Telephone: (713) 468-8880
Facsimile: (713) 468-8883